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Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

Report of the Secretary-General

Summary

The present report has been submitted pursuant to paragraphs 6 and 12 of General Assembly resolution 56/87 of 12 December 2001. It highlights the measures for further improvement of the procedures and working methods of the Security Council and its sanctions committees related to assistance to third States affected by the application of sanctions and reviews the capacity and modalities within the Secretariat for implementing the intergovernmental mandates and for addressing the main findings, including recommendations of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions (A/53/312, chap. IV).

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I. Introduction

1. At its fifty-sixth session, the General Assembly adopted without a vote resolution 56/87 of 12 December 2001, entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions". In the resolution, the General Assembly, inter alia:

(a) Renewed its invitation to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States which are or may be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected States for assistance;

(b) Welcomed the measures taken by the Security Council since the adoption of General Assembly resolution 50/51 of 11 December 1995, most recently the note by the President of the Council dated 17 April 2000 (S/2000/319), whereby the members of the Council decided to establish an informal working group of the Council to develop general recommendations on how to improve the effectiveness of United Nations sanctions, looked forward to the adoption of the Chairman's proposed outcome of the working group, in particular those provisions thereof regarding the issues of the unintended impact of sanctions and assistance to States in implementing sanctions, and strongly recommended that the Council continue its efforts to enhance further the effectiveness and transparency of the sanctions committees, to streamline their working procedures and to facilitate access to them by representatives of States that find themselves confronted with special economic problems arising from the carrying out of sanctions;

(c) Invited the Security Council, its sanctions committees and the Secretariat to continue to ensure, as appropriate, that (i) both pre-assessment reports and ongoing assessment reports include as part of their analysis the likely and actual unintended impact of the sanctions on third States and recommend ways in which the negative impact of sanctions can be mitigated; (ii) sanctions committees provide opportunities for third States affected by sanctions to brief them on the unintended impact of sanctions they are experiencing and on assistance needed by them to mitigate the negative impact of sanctions; (iii) the Secretariat continues to provide, upon request, advice and information to third States to help them to pursue means to mitigate the unintended impact of sanctions, for example, on invoking Article 50 of the Charter for consultation with the Security Council; (iv) where economic sanctions have had severe effects on third States, the Security Council is able to request the Secretary-General to consider appointing a special representative or dispatching, as necessary, fact-finding missions on the ground to undertake necessary assessments and to identify, as appropriate, possible means of assistance; (v) the Security Council is able, in the context of situations referred to in subparagraph (iv) above, to consider establishing working groups to consider such situations;

(d) Requested the Secretary-General to pursue the implementation of General Assembly resolutions 50/51, 51/208, 52/162, 53/107, 54/107 and 55/157 and to ensure that the competent units within the Secretariat develop the adequate capacity and appropriate modalities, technical procedures and guidelines to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions, to continue developing a possible methodology for assessing the adverse consequences actually incurred by third States and to explore innovative and practical measures of assistance to the affected third States;

(e) Welcomed the report of the Secretary-General containing a summary of the deliberations and main findings of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States (A/53/312), and renewed its invitation to States and relevant international organizations within and outside the United Nations system which had not yet done so to provide their views regarding the report of the ad hoc expert group meeting;

(f) Requested the Secretary-General to expedite the preparation of a report to the General Assembly containing his views on the deliberations and main findings, including the recommendations, of the ad hoc expert group on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions, taking into account the views of States, the organizations of the United Nations system,

international financial institutions and other international organizations, as well as the Chairman's proposed outcome of the informal working group of the Security Council on general issues relating to sanctions;

(g) Reaffirmed the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts of the international community and the United Nations system on behalf of States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States;

(h) Took note of the decision of the Economic and Social Council, in its resolution 2000/32 of 28 July 2000, to continue its consideration of the question of assistance to third States affected by the application of sanctions, invited the Council, at its organizational session for 2002, to make appropriate arrangements for that purpose within its programme of work for 2002, and decided to transmit the most recent report of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions (A/56/303), together with the relevant background materials, to the Council at its substantive session of 2002;

(i) Invited the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to address more specifically and directly, where appropriate, the special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for that purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including through regular and frequent meetings as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

(j) Requested the Secretary-General to submit a report on the implementation of the resolution to the General Assembly at its fifty-seventh session.

2. The present report has been prepared in response to the requests contained in paragraphs 6 and 12 of the resolution (see paras. 1 (f) and (j), above). Chapter V of the present report, describing recent developments related to the role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in the area of assistance to third States affected by the application of sanctions, will appear in an addendum to be issued after the conclusion of the July 2002 session of the Economic and Social Council.

II. Measures for further improvement of the procedures and working methods of the Security Council and its sanctions committees related to assistance to third States affected by the application of sanctions

3. Taking account of the note by the President of the Security Council of 29 January 1999 (S/1999/92) and other relevant proposals and recommendations, the members of the Security Council decided to establish, on a temporary basis, an informal working group of the Council to develop general recommendations on how to improve the effectiveness of United Nations sanctions (see S/2000/319). The members of the Council noted the work of the General Assembly in this area and also observed that there existed considerable recent scholarship on the subject of United Nations sanctions that merited further consideration by the Council.

4. The Working Group, chaired by Ambassador Chowdhury (Bangladesh), benefited from available sanctions expertise, including by being briefed, on a case-by-case basis, by appropriate experts. The Group, which held 12 formal and more than 20 informal meetings, has examined, inter alia, the issue of the unintended impact of sanctions on third States and assistance to Member States in implementing sanctions. It was to report its findings to the Council by 30 November 2000, but it was unable to reach a consensus on all of the recommendations. At the informal consultations held on 14 and 15 February 2001, the members of the Security Council took up the Chairman's proposed outcome of the Working Group. Following an exchange of views, the members of the Council decided to continue their consideration of the issue at a later stage, with a view to reaching consensus on outstanding matters.

5. As reported in a note by the President of the Security Council dated 15 January 2002 (S/2002/70), the Security Council agreed to extend the mandate of the Working Group until 31 December 2003 and elected Ambassador Martin Belinga-Eboutou (Cameroon) to

serve as its Chairman. The proposed outcome document remains under the active consideration of the Working Group, with focus being placed on those issues where agreement has yet to be reached.

6. In its deliberations concerning issues related to Article 50, the Security Council Committee established pursuant to resolution 661 (1990) concerning the situation between Iraq and Kuwait has in its practice granted permission for Member States that are not members of the Committee to address it at formal meetings on their special economic problems. In response to letters from Belarus and India, the Committee, by letters from the Chairman dated 13 November 2001, extended invitations to those States to address the Committee in connection with special economic problems falling under Article 50 of the Charter of the United Nations. At its 227th meeting, on 3 December 2001, the Additional Secretary of the Ministry of External Relations of India addressed the Committee regarding special economic problems arising from the carrying out of preventive or enforcement measures applied by the Council. By a letter from the Chairman dated 28 February 2002, the Committee informed India that it had considered the matter at several formal and informal meetings but had been unable to reach a consensus, although it would continue to study the matter. India replied in a letter dated 26 March 2002, stating its disappointment that no consensus had been reached and requesting an expeditious and positive decision on the matter.

7. In a letter dated 24 June 2002 addressed to the President of the Security Council (S/2002/698), the Permanent Representative of Tunisia to the United Nations brought to the attention of the Council the impact of the Iraqi sanctions regime on the Tunisian economy during the past 11 years. The members of the Council agreed to refer the letter to the Committee established pursuant to resolution 661 (1990) for its consideration.

III. Review of the capacity and modalities of the Secretariat for implementing the intergovernmental mandates and recommendations of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions

8. The Secretary-General has taken note of paragraph 4 of General Assembly resolution 56/87 (see para. 1 (d) above) and wishes to observe that the arrangements that were put in place in the Secretariat in 1996, as described in his report of that year on the matter (A/51/317, paras. 4-11) and in his 1997 report (A/52/308, para. 5), continue to apply.

9. The arrangements made in the Secretariat in that regard may be summarized as follows:

(a) The Department of Political Affairs, in consultation with the Department of Economic and Social Affairs, would be responsible for carrying out the tasks set out in paragraph 3 (a) of General Assembly resolution 50/51, namely, collating, assessing and analysing information, at the request of the Security Council and its organs, on the effects of sanctions regimes in third States which are or may be specially affected by the implementation of sanctions and the resulting needs of such States, and keeping the Security Council and its organs informed;

(b) The same two departments would also be responsible for the tasks contemplated in paragraph 3 (b) of the resolution, namely, providing advice to the Security Council and its organs at their request on specific needs or problems of those third States and presenting possible options so that, while maintaining the effectiveness of the sanctions regimes, appropriate adjustments may be made to the administration of the regime or the regime itself with a view to mitigating the adverse effects on such States;

(c) The Department of Economic and Social Affairs would implement the tasks referred to in paragraph 3 (c) of the resolution, namely, collating and coordinating information about international assistance available to third States affected by the implementation of sanctions and making such information officially available to the interested Member States;

(d) The tasks under paragraph 3 (d) of the resolution, namely, the exploration of innovative and practical measures of assistance to the affected third States through cooperation with relevant institutions and organizations inside and outside the United Nations system, would be the responsibility of the Department of Economic and Social Affairs.

10. It should be noted that since the above arrangements were based on "existing resources", the overall budgetary resources currently available to the departments concerned would have to be maintained in the future.

11. It is also understood that this distribution of primary responsibilities did not preclude further cooperation

between the relevant departments, as appropriate, and that the setting in motion of the functions contemplated in several subparagraphs of paragraph 3 of resolution 50/51 was dependent on a request either by the Security Council, its organs or by interested Member States.

12. As stated in his report (A/55/295, para. 14), the Secretary-General, under cover of a note dated 24 March 2000 (E/AC.51/2000/2), transmitting the report of the Office of Internal Oversight Services on the in-depth evaluation of the United Nations programmes on global development trends, issues and policies, and global approaches to social and microeconomic issues and policies, and the corresponding subprogrammes in the regional commissions, took note of the findings of the report and, inter alia, concurred in the recommendation that, after intergovernmental agreement on a methodology for assessing the impact of sanctions on third States, the Department of Economic and Social Affairs and the Department of Political Affairs should review the required activities and capacity needed within the Secretariat. The review should be the basis for proposals presented to the relevant intergovernmental bodies as part of the revision to the medium-term plan.

13. The Secretary-General has also taken note of paragraph 6 of General Assembly resolution 56/87 (see para. 1 (f) above), inter alia, requesting his views on the conclusions and recommendations of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States (A/53/312, chap. IV). It is to be noted that the conclusions and recommendations include the following: (a) the drawing up of a tentative non-exhaustive list of potential effects of sanctions on third States in order to facilitate the process of impact assessment; (b) the submission, within a short period of time (e.g., two weeks), by the Secretary-General, at the request of the Security Council, of an advance assessment of the potential impact of sanctions on the target country and in particular on third States; (c) the entrusting of the Secretariat, following the imposition of sanctions, with the task of monitoring their effects with a view to providing to the Security Council and its organs timely information and early assessments on the effects of the sanctions regimes in third States that are or may be most seriously affected by their implementation; (d) the provision by the Secretariat of technical assistance to States which invoke Article 50 of the Charter of the United Nations, at their request, in preparing explanatory materials to be attached to their requests for consultations with the Security Council with a view to finding a solution to their special economic problems arising from the implementation of sanctions; (e) the appointment by the Secretary-General, in the most severe cases, of a Special Representative to undertake, in collaboration with the Governments concerned, a full assessment of the consequences actually incurred and to identify measures of assistance to such States. To this end, the Special Representative would put in place an inter-agency arrangement or task force; (f) the application, with needed flexibility, of the five practical methods of impact assessment, namely: (i) time series analysis of balance of payment changes, (ii) stratified sample survey of firms, (iii) gravity model of bilateral trade flows, (iv) regression equation of income shocks and (v) analytic hierarchy process for perception surveys, or any combination thereof; (g) the dispatch on the ground, in the most severely affected third countries, of special fact-finding or evaluation missions; and (h) the inclusion in the overall report, to be submitted by the Special Representative to the Secretary-General, of concrete proposals on practical measures of international assistance, to the extent possible, bilateral assistance initiatives, as well as relevant contributions contemplated by institutions outside the United Nations system, particularly at the regional level.

14. In this connection, the Secretary-General wishes to stress that the issues highlighted in the summary of the deliberations and main findings of the ad hoc expert group meeting have been a subject of comment in prior reports, namely: the report of the Secretary-General entitled "An Agenda for Peace" (A/47/277-S/24111, para. 41); the position paper of the Secretary-General entitled "Supplement to an Agenda for Peace" (A/50/60-S/1995/1, paras. 66-76); the report of the Secretary-General prepared pursuant to the note of the President of the Security Council (S/25036) regarding the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter of the United Nations (A/48/573-S/26705, paras. 70-81, 82-86, 89-91, 92-93, 94, 103-106, 107-113, 114-125, 150-159); the report of the Secretary-General on economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) (A/49/356, paras. 4-11, 12-20, 34-43, 44-67); and reports of the Secretary-General on implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions (A/50/361, paras. 8-11, 15-17, 19, 21, 25-29, 33-38, 41-49, 54-56, 59-67, 69-72, 74-76, 78-80;

A/51/317, paras. 13-15, 16-34; and A/52/308, paras. 6-12).

15. In particular, the Secretary-General wishes to recall that in his proposal regarding the convening of the ad hoc expert group meeting, the possibility of its outcome (in the form of methodological or technical guidelines) being submitted for the consideration of Member States, whose political support both at the United Nations and in the governing bodies of the agencies concerned would be essential for universal acceptability and for the effective application of such guidelines (A/52/308, para. 12), was endorsed by the General Assembly in its resolution 52/162 of 15 December 1997.

16. In addition, the Secretary-General has had occasion to comment on the question of sanctions in his annual reports on the work of the Organization,[1] as well as in his report on a road map towards the implementation of the United Nations Millennium Declaration (A/56/326, paras. 56-61). In particular, he has noted the increased application by the Security Council of targeted sanctions, thereby minimizing adverse economic effects on third States.

17. The Secretary-General also notes that the provisions of General Assembly resolution 56/87, in paragraph 3 (a) to (e) (see para. 1 (c) above), contain recommendations similar to some of the recommendations and conclusions of the ad hoc expert group meeting. The Secretary-General further notes that the Security Council and its sanctions committees, with the support of the Secretariat, have been increasingly adopting, as appropriate, into the practice of their work the aforementioned provisions of General Assembly resolutions and some of the recommendations of the expert group meeting.

18. The Secretary-General has provided and will continue to provide his full support for the ongoing intergovernmental deliberations on issues under review, including his views and recommendations as required, in order to ensure the implementation of relevant intergovernmental mandates in a timely and efficient manner.

IV. Views provided by Governments and relevant international organizations regarding the report of the ad hoc expert group meeting and related issues of international assistance to third States affected by the application of sanctions

19. In accordance with paragraphs 5 and 9 of General Assembly resolution 56/87 (see paras. 1 (e) and (i) above), States and relevant international organizations, within and outside the United Nations system, that had not yet done so were invited to provide their views regarding the report of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions, as contained in the 1998 report of the Secretary-General on the subject (A/53/312, chap. IV). It will be recalled that the communications received in 1999 and 2000 from Governments and the relevant international organizations and institutions within and outside the United Nations system on the same matter were summarized in the previous reports of the Secretary-General (A/54/383 and Add.1 and A/55/295 and Add.1 respectively).

Notes

[1] *Official Records of the General Assembly, Fifty-third Session, Supplement No. 1* (A/53/1), paras. 62-64; ibid., *Fifty-fourth Session, Supplement No. 1* (A/54/1), paras. 124-126; ibid., *Fifty-fifth Session, Supplement No. 1* (A/55/1), paras. 99-101; and ibid., *Fifty-sixth Session, Supplement No. 1* (A/56/1), paras. 85-87.